

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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23-34 94th St. Grocery Corp., Kissena Blvd. :
Convenience Store, Inc., New York Association of :
Convenience Stores, New York State Association :
of Service Stations and Repair Shops, Inc., :
Lorillard Tobacco Company, Philip Morris USA :
Inc., and R.J. Reynolds Tobacco Co., Inc., :

Plaintiffs, :
v. : 10 CV 4392 (JSR)

New York City Board of Health, New York City :
Department of Health and Mental Hygiene, New :
York City Department of Consumer Affairs, :
Dr. Thomas Farley, in his official capacity as :
Commissioner of the New York City Department :
of Health and Mental Hygiene, and Jonathan :
Mintz, in his official capacity as Commissioner of :
the New York City Department of Consumer :
Affairs, :

Defendants. :
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MOTION TO ADMIT COUNSEL *PRO HAC VICE*

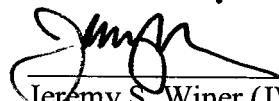
PURSUANT TO RULE 1.3(c) of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, I, Jeremy S. Winer, a member in good standing of the bar of this Court, hereby move for an Order allowing the admission *pro hac vice* of:

Applicant's Name: Daniel P. Kearney
Firm Name: Wilmer Cutler Pickering Hale and Dorr LLP
Address: 1875 Pennsylvania Ave., N.W.
City/State: Washington, D.C. 20006
Phone No.: (202) 663-6285
Fax No.: (202) 663-6363
E-Mail: daniel.kearney@wilmerhale.com

Daniel P. Kearney is a member in good standing of the bars of the State of Massachusetts and the District of Columbia. There are no pending disciplinary proceedings against Mr. Kearney in any State or Federal Court.

DATED: New York, New York
July 30, 2010

Respectfully submitted,



Jeremy S. Winer (JW 8823)

WILMER CUTLER PICKERING HALE AND DORR LLP
399 Park Avenue
New York, NY 10022
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jeremy.winer@wilmerhale.com

Attorney for American Legacy Foundation, et al.

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of JULY, 2010, a copy of the foregoing Motion to Admit Counsel *Pro Hac Vice* was filed with the Clerk of the Court. The foregoing was also served on counsel, indicated below, by placing the same in First Class Mail, addressed as follows:

NEW YORK CITY LAW DEPARTMENT
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*Attorneys for Plaintiffs 23-34 94th St.
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Store, Inc., New York Association of
Convenience Stores, and New York State
Association of Service Stations and Repair
Shops, Inc.*

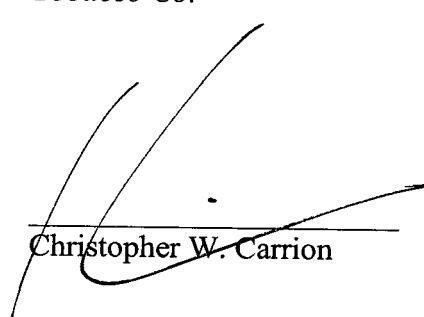
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*Attorneys for Plaintiff Philip Morris USA
Inc.*

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D. Theodore Rave
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Tel.: (212) 326-3939
*Attorneys for Plaintiff R.J. Reynolds
Tobacco Co.*


Christopher W. Carrion



District of Columbia Court of Appeals
Committee on Admissions
430 F Street, N.W. — Room 123
Washington, D.C. 20001
202 / 879-2710

I, JOY A. CHAPPER, Acting Clerk of the District of Columbia Court of Appeals, do hereby certify that

DANIEL KEARNEY, Jr.

was on the 12TH day of OCTOBER, 2007

duly qualified and admitted as an attorney and counselor and entitled to practice before this Court and is, on the date indicated below, an active member in good standing of this Bar.

In Testimony Whereof, I have hereunto subscribed my name and affixed the seal of this Court at the City of Washington, D.C., on July 19, 2010.

JOY A. CHAPPER, ACTING CLERK

By: *Ruby Cl.*
Deputy Clerk

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

BE IT REMEMBERED, that at the Supreme Judicial Court holden at Boston
within and for said County of Suffolk, on the **eleventh**
day of **February** A.D. **2005**, said Court being the highest
Court of Record in said Commonwealth:

Daniel P. Kearney, Jr.

being found duly qualified in that behalf, and having taken and subscribed
the oaths required by law, was admitted to practice as an Attorney, and, by
virtue thereof, as a Counsellor at Law, in any of the Courts of the said
Commonwealth: that said Attorney is at present a member of the Bar, and
is in good standing according to the records of this Court*.

In testimony whereof, I have hereunto set my hand and affixed the

seal of said Court, this **twenty-sixth** day of **July**

in the year of our Lord **two thousand and ten**.



A handwritten signature in black ink, appearing to read "Maura S. Doyle".
MAURA S. DOYLE, Clerk

* Records of private discipline, if any, such as a private reprimand imposed by the Board of Bar Overseers or by any court, are not covered by this certification.

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the New York City Department of Consumer :
Affairs, :
Defendants. :
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**DECLARATION OF JEREMY S. WINER IN SUPPORT OF MOTION TO ADMIT
COUNSEL PRO HAC VICE**

I, Jeremy S. Winer, declare under penalty of perjury, as follows:

1. I am a counsel at the law firm of Wilmer Cutler Pickering Hale and Dorr LLP (“WilmerHale”), which represents the American Legacy Foundation, et al., proposed *amici*

curiae in this action.¹ I am familiar with the proceedings in this case. I make this statement based on my personal knowledge of the facts set forth herein and in support of the motion to admit Daniel P. Kearney as counsel *pro hac vice* to represent the American Legacy Foundation, et al.

2. I am a member in good standing of the bar of the State of New York. I am also admitted to the bar of the United States District Court for the Southern District of New York, and am in good standing with this Court.

3. Mr. Kearney is a senior associate at WilmerHale.

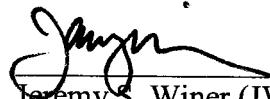
4. Mr. Kearney is, in my judgment, a skilled attorney and a person of integrity. He is fully familiar with Federal practice and the Federal Rules of Civil Procedure.

5. Accordingly, I move for the admission of Daniel P. Kearney *pro hac vice*. A proposed order granting the admission of Daniel P. Kearney *pro hac vice* is attached hereto.

WHEREFORE it is respectfully requested that this Court grant the motion to admit Daniel P. Kearney *pro hac vice* to represent the American Legacy Foundation, et al., as proposed *amici curiae* in the above-captioned matter.

¹ Proposed amici are: American Legacy Foundation, American Academy of Pediatrics, American Cancer Society, ACS Cancer Action Network, American Lung Association, American Lung Association In New York, American Medical Association, American Public Health Association, Asian Pacific Partners For Empowerment, Advocacy And Leadership, Campaign For Tobacco-Free Kids, Citizens' Commission To Protect The Truth, Faith United Against Tobacco, Lung Cancer Alliance, Massachusetts Association Of Health Boards, Medical Society For The State Of New York, National African American Tobacco Prevention Network, National Association Of Chronic Disease Directors, National Association Of County And City Health Officials, National Association Of Local Boards Of Health, National Coalition For LGBT Health, National LGBT Tobacco Control Network, Oncology Nursing Society, Partnership For Prevention, and Tobacco Control Legal Consortium.

DATED: New York, New York
July 30, 2010



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Attorney for American Legacy Foundation, et al.

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Defendants.
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ORDER FOR ADMISSION *PRO HAC VICE* ON WRITTEN MOTION

Upon the motion of Jeremy S. Winer, attorney for the American Legacy Foundation, et al., and the sponsor attorney's declaration in support;

IT IS HEREBY ORDERED that

Applicant's Name: Daniel P. Kearney
Firm Name: Wilmer Cutler Pickering Hale and Dorr LLP
Address: 1875 Pennsylvania Ave., N.W.
City/State: Washington, D.C. 20006
Phone No.: (202) 663-6285
Fax No.: (202) 663-6363
E-Mail: daniel.kearney@wilmerhale.com

is admitted to practice *pro hac vice* as counsel for the American Legacy Foundation, et al.,¹ in the above-captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing discipline of attorneys. Counsel shall immediately apply for an ECF password at nysd.uscourts.gov.

DATED: _____, 2010
New York, New York

HONORABLE JED S. RAKOFF
United States District Judge

¹ American Legacy Foundation, American Academy Of Pediatrics, American Cancer Society, ACS Cancer Action Network, American Lung Association, American Lung Association In New York, American Medical Association, American Public Health Association, Asian Pacific Partners For Empowerment, Advocacy And Leadership, Campaign For Tobacco-Free Kids, Citizens' Commission To Protect The Truth, Faith United Against Tobacco, Lung Cancer Alliance, Massachusetts Association Of Health Boards, Medical Society For The State Of New York, National African American Tobacco Prevention Network, National Association Of Chronic Disease Directors, National Association Of County And City Health Officials, National Association Of Local Boards Of Health, National Coalition For LGBT Health, National LGBT Tobacco Control Network, Oncology Nursing Society, Partnership For Prevention, and Tobacco Control Legal Consortium.